

5/10/2017 12:36:49 PM

Velva L. Price  
 District Clerk  
 Travis County  
 D-1-GN-17-002038  
 Carrisa Escalante

CAUSE NO. **D-1-GN-17-002038**

JESSICA NICOLE STAFFORD

§

IN THE DISTRICT COURT  
OF

§

VS.

§

TRAVIS COUNTY, TEXAS

§

MID-CONTINENT  
CASUALTY COMPANY

§

§

**250TH** JUDICIAL DISTRICT

§

**PLAINTIFF'S ORIGINAL PETITION AND REQUEST FOR DISCLOSURE****I. Discovery Control Plan**

1. Plaintiff intends to conduct discovery under Level 2 of the Texas Rule of Civil Procedure 190.2.

**II. Parties**

2. Plaintiff, Jessica Nicole Stafford ("Ms. Stafford"), is an individual residing in Travis County, Texas.
3. Defendant, Mid-Continent Casualty Company, is a foreign corporation, organized and existing under the laws of the State of Ohio, whose home office is 1437 South Boulder Avenue Suite 200, Tulsa County, State of Oklahoma. Defendant can be served with process through its registered agent, Margaret A. Bounds, 3100 S. Gessner Road, Suite 600, Houston, TX 77063-3767.

### **III. Jurisdiction**

4. The court has jurisdiction over defendant, a nonresident, because defendant purposefully availed itself of the privileges and benefits of conducting business in Texas by engaging in business in Texas and issuing insurance policy contracts to a Texas limited liability company.
5. Defendant insured CS Custom Homes, LLC, ("CSCH") a Texas limited liability company through at least three policies, including GL 673995, GL 705812 and GL 747261.

### **IV. Venue**

6. Venue is permissive in Travis County, Texas since this is a suit for breaches of written insurance policy contracts and this county is where Defendant's insured, CSCH, is domiciled, where the actions giving rise to Defendant's obligations under the insurance policies took place, and where the judgment giving rise to the Defendant's obligation to Plaintiff was entered. Further, Plaintiff resides in this county.

### **V. Conditions Precedent**

7. All conditions precedent necessary to maintain this action have been performed or have occurred. Namely, Plaintiff has obtained a final judgment against Defendant's insured, CSCH, by prevailing at a jury trial on the merits and on appeal.

### **VI. Background Facts**

8. On information and belief, CSCH was insured by Defendant pursuant to at least three policies: GL673995, Effective 02/16/2007 to 02/16/2008; GL705812, Effective 02/16/2008 to 02/16/2009, and; GL 747261, Effective 02/16/2009 to 02/16/2010.
9. Within the effective dates of the policies, Ms. Stafford and CSCH executed a Residential Construction Contract dated May 27, 2007 pursuant to which CSCH agreed to construct a

home for Ms. Stafford.

10. During construction of the home pursuant to the Residential Construction Contract, the personal and real property of Ms. Stafford were damaged.
11. In October of 2009, Ms. Stafford brought suit against CSCH to recover for her personal and real property damage.
12. On February 7, 2013, and after a favorable verdict in a jury trial in the 250<sup>th</sup> District Court of Travis County, the court entered a final judgment that held Defendant's insured, CSCH, liable to Ms. Stafford in the amount of \$386,759.00.
13. After an appeal to the Third Circuit Court of Appeals and a remand and trial, the district court entered an amended final judgment that held Defendant's insured, CSCH, liable to Ms. Stafford in the amount of \$271,599.50.

**VII. Count 1 – Breach of Insurance Contract(s)**

14. Paragraphs 1-13 are incorporated herein.
15. Defendant and CSCH entered into valid and enforceable insurance policy contracts. The policies provided that Defendant would "pay those sums that the insured becomes legally obligated to pay as damages because of 'bodily injury' or 'property damage' to which this insurance applies." Plaintiff has standing to enforce the contract(s) executed by Defendant and CSCH because Plaintiff is an intended third-party beneficiary of the policies.
16. CSCH fully performed its contractual obligations.
17. Defendant breached the contract(s) by refusing to pay the sum that CSCH is legally obligated to pay to Plaintiff.
18. Plaintiff seeks liquidated damages in the amount of at least \$ 271,599.50 which is within

the jurisdictional limits of this court.

19. Plaintiff is entitled to recover reasonable and necessary attorney fees under Texas Civil Practice & Remedies Code chapter 38 because this is a suit for breach of written contract. Plaintiff retained counsel, who presented Plaintiff's claim to Defendant's counsel. Defendant did not tender the amount owed within 30 days after the claim was presented.

#### **VIII. Jury Demand**

20. Plaintiff demands a jury trial and tenders the appropriate fee with this petition.

#### **IX. Request for Disclosures**

21. Pursuant to Rule 194 of the Texas Rules of Civil Procedure, Plaintiff requests each Defendant disclose within 50 days of the service of this request, the information or material described in Rule 194.2.

#### **X. Prayer**

22. For these reasons, Plaintiff prays Defendant be duly cited to appear and answer this complaint and upon final trial of this cause, Plaintiff recover:

1. Judgment against the Defendants for Plaintiff's damages as set forth above in an amount in excess of the minimum jurisdictional limits of this Court;
2. Reasonable and necessary attorney's fees, in accordance with the provisions of Texas Civil Practice & Remedies Code chapter 38.
3. Interest on the judgment at the legal rate from date of judgment;
4. Costs of Court; and
5. Such other and further relief, both general and special, at law or in equity, to which the Plaintiff may show herself justly entitled.

Respectfully Submitted,  
EVIN G. DUGAS



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ATTORNEYS FOR PLAINTIFF  
NICOLE STAFFORD

## CIVIL CASE INFORMATION SHEET

CAUSE NUMBER (FOR CLERK USE ONLY): \_\_\_\_\_ COURT (FOR CLERK USE ONLY): \_\_\_\_\_

## STYLED JESSICA STAFFORD V. MID CONTINENT CASUALTY CO.,

(e.g., John Smith v. All American Insurance Co; In re Mary Ann Jones; In the Matter of the Estate of George Jackson)

A civil case information sheet must be completed and submitted when an original petition or application is filed to initiate a new civil, family law, probate, or mental health case or when a post-judgment petition for modification or motion for enforcement is filed in a family law case. The information should be the best available at the time of filing. This sheet, approved by the Texas Judicial Council, is intended to collect information that will be used for statistical purposes only. It neither replaces nor supplements the filings or service of pleading or other documents as required by law or rule. The sheet does not constitute a discovery request, response, or supplementation, and it is not admissible at trial.

06172950

## 1. Contact information for person completing case information sheet:

## Names of parties in case:

[Attach additional page as necessary to list all parties]

Person or entity completing sheet in

Name: <b>EVIN G. DUGAS</b>	Email: <b>EVIN@HOUSEDEFECTS.COM</b>	Plaintiff(s)/Petitioner(s):  <b>JESSICA STAFFORD</b>	Attorney for Plaintiff/Petitioner: <input checked="" type="checkbox"/> <b>Pro Se Plaintiff/Petitioner</b> Title IV-D Agency Other:  Additional Parties in Child Support Case:  Custodial Parent:  Non-Custodial Parent:  Presumed Father:
Address: <b>2303 RR 620 S, Suite 135 PMB 361</b>	Telephone: <b>512 2210121</b>	Defendant(s)/Respondent(s):  <b>V. MID CONTINENT CASUALTY COMPANY.</b>	
<b>Austin, Tx 78734</b>	<b>512223 2559</b>		
Signature: <i>Evin G Dugas</i>	State Bar No: <b>06'7 2950</b>		

## 2. Indicate case type, or identify the most important issue in the case (select only 1):

Civil

Family Law

Contract		Injury or Damage		Real Property		Marriage Relationship		Post-judgment Actions (non-Title IV-D)	
<input type="checkbox"/> Consumer/DTPA <input type="checkbox"/> Debt/Contract <input type="checkbox"/> Fraud/Misrepresentation <input type="checkbox"/> Other Debt/Contract: <input type="checkbox"/> Foreclosure <input type="checkbox"/> Home Equity—Expedited <input type="checkbox"/> Other Foreclosure <input type="checkbox"/> Franchise <input type="checkbox"/> Insurance <input type="checkbox"/> Landlord/Tenant <input type="checkbox"/> Non-Competition <input type="checkbox"/> Partnership <input type="checkbox"/> Other Contract: _____		<input type="checkbox"/> Assault/Battery <input type="checkbox"/> Construction <input type="checkbox"/> Defamation <input type="checkbox"/> Malpractice <input type="checkbox"/> Accounting <input type="checkbox"/> Legal <input type="checkbox"/> Medical <input type="checkbox"/> Other Professional <input type="checkbox"/> Liability: _____ <input type="checkbox"/> Motor Vehicle Accident <input checked="" type="checkbox"/> Premises <input type="checkbox"/> Product Liability <input type="checkbox"/> Asbestos/Silica <input type="checkbox"/> Other Product Liability <input type="checkbox"/> List Product: _____ <input type="checkbox"/> Other Injury or Damage: _____		<input type="checkbox"/> Eminent Domain/ <input type="checkbox"/> Condemnation <input type="checkbox"/> Partition <input type="checkbox"/> Quiet Title <input type="checkbox"/> Trespass to _____ Title <input type="checkbox"/> Other Property: _____ <input type="checkbox"/> Related to Criminal <input type="checkbox"/> Matters <input type="checkbox"/> Expunction <input type="checkbox"/> Judgment Nisi <input type="checkbox"/> Non-Disclosure <input type="checkbox"/> Seizure/Forfeiture <input type="checkbox"/> Writ of Habeas Corpus <input type="checkbox"/> Pre-indictment <input type="checkbox"/> Other: _____		<input type="checkbox"/> Annulment <input type="checkbox"/> Declare Marriage Void <input type="checkbox"/> Divorce <input type="checkbox"/> With Children <input type="checkbox"/> No Children <input type="checkbox"/> Other Family Law <input type="checkbox"/> Enforce Foreign <input type="checkbox"/> Judgment <input type="checkbox"/> Habeas Corpus <input type="checkbox"/> Name Change <input type="checkbox"/> Protective Order <input type="checkbox"/> Removal of Disabilities <input type="checkbox"/> of Minority <input type="checkbox"/> Other: _____		<input type="checkbox"/> Enforcement <input type="checkbox"/> Modification—Custody <input type="checkbox"/> Modification—Other <input type="checkbox"/> Title IV-D <input type="checkbox"/> Enforcement/Modification <input type="checkbox"/> Paternity <input type="checkbox"/> Reciprocity (UIPSA) <input type="checkbox"/> Support Order <input type="checkbox"/> Parent-Child Relationship <input type="checkbox"/> Adoption/Adoption with <input type="checkbox"/> Termination <input type="checkbox"/> Child Protection <input type="checkbox"/> Child Support <input type="checkbox"/> Custody or Visitation <input type="checkbox"/> Gestational Parenting <input type="checkbox"/> Grandparent Access <input type="checkbox"/> Paternity/Parenage <input type="checkbox"/> Termination of Parental <input type="checkbox"/> Rights <input type="checkbox"/> Other Parent-Child:	
Employment		Other Civil		Intellectual Property		Probate & Mental Health			
<input type="checkbox"/> Discrimination <input type="checkbox"/> Retaliation <input type="checkbox"/> Termination <input type="checkbox"/> Workers' Compensation <input type="checkbox"/> Foreign Judgment		<input type="checkbox"/> Administrative Appeal <input type="checkbox"/> Antitrust/Unfair <input type="checkbox"/> Competition <input type="checkbox"/> Labor Violations <input type="checkbox"/> Tortious Interference <input type="checkbox"/> Other Employment:		<input type="checkbox"/> Probate/Wills/Intestate Administration <input type="checkbox"/> Dependent Administration <input type="checkbox"/> Independent Administration <input type="checkbox"/> Mental Health <input type="checkbox"/> Other Estate Proceedings		<input type="checkbox"/> Guardianship—Adult <input type="checkbox"/> Guardianship—Minor			
Tax									
<input type="checkbox"/> Tax Appraisal <input type="checkbox"/> Tax Delinquency <input type="checkbox"/> Other Tax Other:									
3. Indicate procedure or remedy, if applicable (may select more than 1):									
<input type="checkbox"/> Appeal from Municipal or Justice Court <input type="checkbox"/> Arbitration-related <input type="checkbox"/> Attachment <input type="checkbox"/> Bill of Review			<input type="checkbox"/> Declaratory Judgment <input type="checkbox"/> Garnishment <input type="checkbox"/> Interpleader <input type="checkbox"/> License			<input type="checkbox"/> Prejudgment Remedy <input type="checkbox"/> Protective Order <input type="checkbox"/> Receiver <input type="checkbox"/> Sequestration			

Certiorari  
Class Action

Mandamus  
Post-judgment

Temporary Restraining Order/Injunction  
Turnover

Unofficial copy Travis Co. District Clerk Velva L. Price